

1202.7000**48 CFR Ch. 12 (10–1–04 Edition)**

(8) Research and Special Programs Administration (RSPA);

(9) Saint Lawrence Seaway Development Corporation (SLSDC); and

(10) United States Coast Guard (USCG).

(k) *Senior Procurement Executive* (SPE) means the Director of the Office of Acquisition and Grant Management (M-60).

[59 FR 40272, Aug. 8, 1994, as amended at 61 FR 50249, Sept. 25, 1996; 62 FR 26420, May 14, 1997; 62 FR 67750, Dec. 30, 1997]

Subpart 1202.70—Internet Links**1202.7000 General.**

Throughout the (TAR) 48 CFR chapter 12, referenced documents which can be found on the internet will cite the applicable internet address. These addresses are located in Appendix A of this part.

[62 FR 67750, Dec. 30, 1997]

APPENDIX A TO PART 1202—LIST OF INTERNET ADDRESSES FOR TAR DOCUMENTS

TAR part	Document name	Internet address
1201	TAR	http://www.dot.gov/ost/m60/tamtar/part1201.htm
	TAC	http://www.dot.gov/ost/m60/tamtar/part1201.htm
1205	DOT Procurement Forecast	http://osdbuweb.dot.gov/consolic.htm
1234	Major Acquisition Policies and Procedures.	http://www.dot.gov/ost/m60/tamtar/chap1234.htm

[62 FR 67750, Dec. 30, 1997]

PART 1203—IMPROPER BUSINESS PRACTICES AND PERSONAL CONFLICTS OF INTEREST**Subpart 1203.1—Safeguards**

Sec.

1203.101–3 Agency regulations.

1203.104–11 Criminal and civil penalties, and further administrative remedies.

Subpart 1203.2—Contractor Gratuities to Government Personnel

1203.203 Reporting suspected violations of the Gratuities clause.

1203.204 Treatment of violations.

Subpart 1203.3—Reports of Suspected Antitrust Violations

1203.301 General.

Subpart 1203.4—Contingent Fees

1203.405 Misrepresentations or violations of the Covenant Against Contingent Fees.

Subpart 1203.5—Other Improper Business Practices

1203.502 Subcontractor kickbacks.

1203.502–2 General.

Subpart 1203.8—Limitation on the Payment of Funds to Influence Federal Transactions

1203.806 Processing suspected violations.

AUTHORITY: 5 U.S.C. 301; 41 U.S.C. 418(b); 48 CFR 3.1.

SOURCE: 59 FR 40273, Aug. 8, 1994, unless otherwise noted.

Subpart 1203.1—Safeguards**1203.101–3 Agency regulations.**

(b) 5 CFR part 2635, Standards of Ethical Conduct for Employees of the Executive Branch, supersedes the DOT regulation at 49 CFR part 99.

1203.104–11 Criminal and civil penalties, and further administrative remedies.

(a) The COCO is the reviewing official for processing violations.

(1) When the contracting officer receives information of a violation or possible violation, and concludes that the reported violation or possible violation of the statutory prohibitions has no impact on the pending procurement, the contracting officer shall forward the information required by (FAR) 48 CFR 3.104–11(a)(1) to the COCO for concurrence with the contracting officer's

Department of Transportation

1203.204

conclusion. If the COCO concurs with the conclusion, the contracting officer shall proceed with the award, and the COCO shall submit the information and conclusion to the HCA.

(2) When the COCO does not concur with the conclusion of the contracting officer, the COCO shall advise the contracting officer to withhold award, and the COCO shall promptly forward the information and documentation to the HCA.

(3) When the contracting officer determines that the information concerning a violation or possible violation will impact the pending procurement, the contracting officer shall promptly forward the information and documentation to the HCA.

(b) The HCA shall review the information transmitted in accordance with subparagraph (a)(1) through (a)(3) of this section and take appropriate action, as required by (FAR) 48 CFR 3.104-11(b).

(c) If the HCA believes that a violation has occurred and the information should be disclosed to a criminal investigative agency (e.g., the Department of Justice) or that there may be a possible violation, and an investigation should be conducted, the HCA shall obtain guidance from legal counsel and the OIG prior to taking any action. If the HCA, pursuant to (FAR) 48 CFR 3.104-11(f), determines that award is justified by urgent and compelling circumstances, or is otherwise in the interests of the Government, a memorandum of the facts and circumstances shall be signed by the HCA and placed in the contract file.

Subpart 1203.2—Contractor Gratuities to Government Personnel

1203.203 Reporting suspected violations of the Gratuities clause.

(a) Suspected violations of the Gratuities clause shall be reported to the contracting officer responsible for the acquisition (or the COCO if the contracting officer is suspected of the violation). The contracting officer (or

COCO) shall obtain from the person reporting the violation, and any witnesses to the violation, the following information:

(1) The date, time, and place of the suspected violation;

(2) The name and title (if known) of the individual(s) involved in the violation; and

(3) The details of the violation (e.g., the gratuity offered or intended) to obtain a contract or favorable treatment under a contract.

(b) The person reporting the violation and witnesses (if any) should be requested to sign and date the information certifying that the information furnished is true and correct.

(c) The COCO shall report suspected violations to the Office of the Inspector General (OIG) (J-1), 400 7th Street, S.W., Washington, DC, 20590, with a copy to General Counsel (C-1) and the OA's Chief Counsel.

1203.204 Treatment of violations.

(a) The authority of the agency head established in (FAR) 48 CFR 3.204(a), to determine whether a gratuities clause violation has occurred, has been delegated to the HCA. If the decision maker pursuant to this delegation has been personally and substantially involved in the procurement, the advice of Government legal counsel should be sought to determine whether an alternate decision maker should be designated.

(b) The COCO shall ensure that the hearing procedures required by FAR 3.204 are afforded to the contractor. Government legal counsel should be consulted regarding the appropriateness of the hearing procedures that are established.

(c) If the alleged gratuities violation occurs during the "conduct of an agency procurement" as defined by (FAR) 48 CFR 3.104-4(c)(1), the COCO shall consult with Government legal counsel regarding the approach for appropriate processing of either the Procurement Integrity Act violation and/or the Gratuities violation.

1203.301

Subpart 1203.3—Reports of Suspected Antitrust Violations

1203.301 General.

(b) The same procedures contained in (TAR) 48 CFR 1203.203 shall also be followed for suspected antitrust violations, except suspected antitrust violations shall be reported through legal counsel in accordance with (FAR) 48 CFR 3.303.

Subpart 1203.4—Contingent Fees

1203.405 Misrepresentations or violations of the Covenant Against Contingent Fees.

(a) The same procedures contained in (TAR) 48 CFR 1203.203 shall also be followed for misrepresentation or violations of the covenant against contingent fees.

[59 FR 40273, Aug. 8, 1994. Redesignated at 62 FR 26420, May 14, 1997]

Subpart 1203.5—Other Improper Business Practices

1203.502 Subcontractor kickbacks.

1203.502-2 General.

(g) The same procedures contained in (TAR) 48 CFR 1203.203 shall also be followed for subcontractor kickbacks.

Subpart 1203.8—Limitation on the Payment of Funds to Influence Federal Transactions

1203.806 Processing suspected violations.

Contracting officers shall report, in accordance with OA procedures, suspected violations of the requirements of 31 U.S.C. 1352 to the Assistant Inspector General for Investigations (JI-1), 400 Seventh Street, S.W., Washington, DC, 20590.

PART 1204—ADMINISTRATIVE MATTERS

Subpart 1204.1—Contract Execution

Sec.

1204.103 Contract clause.

48 CFR Ch. 12 (10-1-04 Edition)

Subpart 1204.8—Contract Files

1204.804 Closeout of contract files.

1204.804-1 Closeout by the office administering the contract.

1204.804-5 Detailed procedures for closing out contract files.

1204.804-570 Supporting closeout documents.

AUTHORITY: 5 U.S.C. 301; 41 U.S.C. 418(b); 48 CFR 3.1.

SOURCE: 59 FR 40274, Aug. 8, 1994, unless otherwise noted.

Subpart 1204.1—Contract Execution

1204.103 Contract clause.

The contracting officer shall insert the clause at (FAR) 48 CFR 52.204-1, Approval of Contract, filled in as appropriate, in solicitations when approval to award the resulting contract must be obtained from an official at a level above the contracting officer.

Subpart 1204.8—Contract Files

1204.804 Closeout of contract files.

1204.804-1 Closeout by the office administering the contract.

(b) If the contracting officer determines appropriate, the quick closeout procedures under (FAR) 48 CFR 42.708 may be used for the settlement of indirect costs under contracts when the estimated amount (excluding any fixed fee) of the contract is \$3 million or less.

1204.804-5 Detailed procedures for closing out contract files.

1204.804-570 Supporting closeout documents.

(a) When applicable (see parenthetical examples in this paragraph) and prior to contract closure, the contracting officer shall obtain the listed DOT and Department of Defense (DOD) forms from the contractor to facilitate contract closeout.

(1) Form DOT F 4220.4, Contractor's Release (e.g., see (FAR) 48 CFR 52.216-7);

(2) Form DOT F 4220.45, Contractor's Assignment of Refunds, Rebates, Credits and Other Amounts (e.g., see (FAR) 48 CFR 52.216-7);

(3) Form DOT F 4220.46, Cumulative Claim and Reconciliation Statement